



First-Tier Tribunal SEND Health and Social Care

Recommendations Pilot

If you live in one of the pilot local authorities identified in the Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) (Pilot) Regulations 2015 – see the list below – and you are making an appeal to the Tribunal against one of the following:

- a decision by the local authority not to issue an EHC plan
- a decision by the local authority not to carry out a re-assessment for a child/young person who has an EHC plan
- a decision by the local authority not to amend an EHC plan following a review or re-assessment
- a decision by the local authority to cease to maintain an EHC plan
- the description of the child/young person's special educational needs in an EHC plan
- the special educational provision specified in an EHC plan
- the school or other educational institution named in an EHC plan

you can ask the Tribunal to make recommendations that:

- the health care needs specified in the EHC plan are amended
- the social care needs specified in the EHC plan are amended
- health care and/or social care needs are specified in the EHC plan where such needs have not been specified
- health care and/or social care needs are specified when the EHC plan is made
- the health care provision specified in the EHC plan is amended
- the social care provision specified in the EHC plan is amended
- health care or social care provision or provision of a particular kind is specified in the EHC plan where such provision has not been specified

- health care or social care provision or provision of a particular kind is specified when the EHC plan is made

If you want to appeal to the Tribunal and ask it to make a recommendation, then you must contact an independent mediation adviser in respect of the issues in the appeal and discuss whether mediation might be a suitable way of resolving the disagreement. You must obtain a mediation certificate from the mediation provider before your appeal can be registered. If your appeal is solely about the school or other institution named in the EHC plan, you do not need a mediation certificate.

If you enter into mediation and your mediation certificate is dated after the end of the two month window for making your appeal, then you can make your appeal within one month of the date of the mediation certificate.

When you have obtained your mediation certificate, you should complete the form that covers your situation. If you are the parent of a child who is of or under compulsory school age requesting recommendations, then please complete form SEND 29. Compulsory school age ends on the last Friday in June in the academic year when the child turns 16 so if your child's birthday falls on the 1 October 2014, compulsory school age will end on the last Friday in June in 2015 regardless of the Year group in which your child is taught.

If you are a young person over compulsory school age requesting recommendations, then please complete form SEND29A.

In the appeal form, please set out the details of the issues in the appeal and provide as much detail as possible about the changes that you are seeking to the plan and the issue or issues on which you are seeking a recommendation in respect of health and/or social care. Where you are seeking particular changes to the wording of the EHC plan, please set out those changes.

When the local authority has received your appeal and request for recommendations, they will, where appropriate, provide a copy to the health commissioner and/or social care team and the local authority will submit written evidence with their response to the appeal to explain the health commissioner's or social care team's response to the request for a recommendation. The local authority may seek permission to bring an additional witness to the hearing to give oral evidence about the issue. You will be able to ask questions of that witness and can ask permission of the Tribunal to bring a witness of your own to cover the issue.

In some cases, the Tribunal may decide that it may be necessary to make recommendations even if you have not asked for any to be made. If the Tribunal takes that step, then it will provide the parties and the health commissioner with an opportunity to respond to the proposed recommendation and may have to adjourn the hearing to another day.

Once the appeal has been concluded, the Tribunal will make its decision in the usual way and will send you a written decision setting out the reasons for its conclusions. At the same time as you are sent the decision, if a recommendation is made, a copy will also be sent to the LA and the health commissioner and/or social care team. The health commissioner and/or the social care team will be required to respond to the recommendations in writing to you the local authority and the Tribunal within five weeks or such other period as the Tribunal directs. In the case of social care recommendations, the local authority will be required to respond to you and the Tribunal within five weeks or such other period as the Tribunal directs.

The Tribunal will take no further action on receipt of the response to the recommendation other than to retain the document for analysis as part of the pilot.

If you consider that the response to the recommendation from the health commissioner and/or local authority social care team affects the outcome of the appeal, then you can make an application to the Tribunal for the decision to be reviewed under Rule 48 of the Tribunal Procedure Rules 2008 on the basis that there has been a change of circumstances.

Applications for a review under rule 48 must normally be made within 28 days of issue of the decision, but if you make the application within 28 days of receiving the response to the recommendations, and explain the position to the Tribunal in your application, it is likely that time will be extended to accept the application.

If an application for review is received, the Tribunal Judge will consider what further action is necessary to conclude the appeal.

Local Authorities participating in the Recommendations Pilot:

Barking and Dagenham London Borough Council

Bedford Borough Council

Blackpool Council

Cheshire West and Chester Council

Ealing London Borough Council

East Riding of Yorkshire Council

Hackney London Borough Council

Kent County Council

Lambeth London Borough Council

Liverpool City Council

Sandwell Metropolitan Borough Council

Stockport Metropolitan Borough Council

Wokingham Borough Council